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THE HONORABLE RICARDO S. MARTINEZ

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT KENNY,

Plaintiff,

v.

PACIFIC INVESTMENT
MANAGEMENT COMPANY LLC, a
Delaware limited liability company;
PIMCO INVESTMENTS LLC,

Defendants.

No. CV 14-1987-RSM

**STIPULATION AND [PROPOSED]
ORDER AMENDING ORDER SETTING
TRIAL DATE AND RELATED DATES
AND DEADLINES IN JOINT STATUS
REPORT AND DISCOVERY PLAN**

NOTE FOR MOTION: September 30, 2016

Plaintiff Robert Kenny (“Plaintiff”) and Defendants Pacific Investment Management Company LLC and PIMCO Investments LLC (collectively, “Defendants”), through their undersigned counsel of record, hereby stipulate and agree as follows:

On September 6, 2016, the parties filed with the Court the Joint Status Report and Discovery Plan (Dkt. 98), wherein the parties reported that additional time was necessary to complete the expanded discovery obligations arising from recent Court orders and to respond to ongoing discovery requests. This stipulation and proposed order follows the status report by specifying certain proposed revised deadlines for completion of various discovery activities.

STIPULATION AND [PROPOSED] ORDER
(No. CV 14-1987-RSM) – 1

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1 Although the parties have sought to complete fact discovery as expeditiously as possible
 2 and continue to work diligently to this end, in light of the overall volume, ongoing discovery
 3 requests, and recent Court orders, Defendants' document review and production have become
 4 larger in scope than previously anticipated, rendering an extension of the previously ordered
 5 deadlines necessary.
 6

7 In addition to requests for production of documents¹ and interrogatories propounded by
 8 Plaintiff in the normal course of discovery, Plaintiff requests additional discovery based on the
 9 Court's recent Order Granting Plaintiff's Motion for Judgment on the Pleadings in this matter
 10 (Dkt. 97). The order held that "Section 36(b) of the ICA contains only a retrospective
 11 limitation on damages and [] Plaintiff need not file Anniversary Complaints annually to
 12 preserve his right to pursue damages incurred after the filing of this action" and has the effect
 13 of extending the timeframe at issue in this matter. As a result, Plaintiff has requested
 14 production of documents from the later time period newly encompassed by this matter, which
 15 necessarily compels Defendants to conduct an additional collection, review, and production of
 16 documents.
 17

18 The Court also granted in part Plaintiff's motion to compel discovery on August 5, 2016
 19 (Dkt. 96). This order required further discovery on several issues, which will require additional
 20 time by Defendants and Defendants' counsel to identify and produce responsive documents.
 21 While Defendants have already provided a portion of the responsive documents to Plaintiff, the
 22 parties continue to confer over the scope of certain categories of documents contemplated by
 23 the order.
 24

25 Additionally, as a result of ongoing discovery disputes between Plaintiff and the
 26 Independent Trustees of the PIMCO Total Return Fund (*see* Pls. Mot. to Compel Trustees, Dkt.
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¹ Defendants are currently responding to Plaintiff's Fourth Request for Production of Documents, in addition to addressing follow-up discovery requests flowing from the First, Second, and Third Requests for Production of Documents and Plaintiff's First Set of Interrogatories.

100), the parties have delayed taking the depositions of several witnesses until the dispute is
 resolved by the Court.

When all of the above circumstances are considered, Defendants expect their document production to be substantially complete by March 31, 2017. This date for substantial completion of production of documents is nine months later than the June 30, 2016 target for substantial completion of document discovery memorialized in the parties' April 27, 2016 stipulation to a revised discovery plan.

Accordingly, in light of the additional nine months Defendants believe will be necessary to substantially complete production of documents in response to Plaintiff's document requests,

IT IS HEREBY STIPULATED, by and among Plaintiff and Defendants, for good cause shown, that the deadlines and dates reflected in the Court's Order Setting Trial Date and Related Dates (Dkt. 51) and the parties' Stipulation and Order Amending Trial Date and Related Dates and Deadlines in Joint Status Report and Discovery Plan (Dkt. 56) be extended by approximately nine months, as proposed below, subject to the Court's approval:

Event in Order Setting Trial Date and Related Dates	Current Deadline	Revised Deadline
Jury Trial Date	09/19/2017	06/19/2018
Disclosure of expert testimony under FRCP 26(a)(2)	03/17/2017	12/01/2017
All motions related to discovery must be noted on the motion calendar no later than the Friday before discovery closes pursuant to CR7(d)(3) and CR7(a)(2)(B)	05/12/2017	02/09/2018
Discovery completed by	05/19/2017	02/16/2018
All dispositive motions must be filed by and noted on the motion calendar no later than the fourth Friday thereafter (see CR7(d))	06/16/2017	03/16/2018

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51	Mediation per CR 39.1(c)(3) held no later than All motions in limine must be filed by and noted on the motion calendar no later than the THIRD Friday thereafter Agreed pretrial order due Trial briefs, proposed voir dire questions, jury instructions, neutral statement of the case, and trial exhibits due Event in Joint Status Report and Discovery Plan Document discovery shall be substantially completed on or before Fact discovery shall be completed on or before Expert discovery shall commence promptly upon the closure of fact discovery and shall be completed on or before Plaintiff shall designate any expert witnesses and serve each expert's written report pursuant to Fed. R. Civ. P. 26(a)(2)(B) on or before Defendants shall designate any expert witnesses and serve each expert's report pursuant to Fed. R. Civ. P. 26(a)(2)(B) on or before Plaintiffs shall serve any rebuttal expert reports from previously-designated experts on or before Expert depositions shall be completed by	07/28/2017 08/18/2017 09/01/2017 09/22/2017 06/30/2016 10/28/2016 05/19/2017 12/02/2016 02/03/2017 03/03/2017 05/19/2017	04/27/2018 05/18/2018 05/18/2018 06/01/2018 03/31/2017 07/28/2017 02/16/2018 09/15/2017 11/03/2017 12/01/2017 02/16/2018
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STIPULATION AND [PROPOSED] ORDER
(No. CV 14-1987-RSM) – 7

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CERTIFICATE OF SERVICE

I hereby certify that on September 30, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the email addresses indicated on the Court's Electronic Mail Notice List.

DATED: September 30, 2016.

By: s/ Ronald L. Berenstain

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